

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants : Yuzhang Wu et al.
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Art Unit : 1648
Examiner : PENG, BO
Title of invention : IMMUNOGEN FOR PREPARATION OF
THERAPEUTIC VACCINES OR DRUGS FOR TREATMENT OF HEPATITIS B
AND THE PRODUCING METHOD AND USE THEREOF

Commissioner for Patents
U.S. Patent and Trademark Office
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DECLARATION UNDER 37 CFR § 1.132

Sir:

I, Yuzhang Wu, declare as follows:

1. I hold a Ph.D. in viral biology from Third Military Medical University. Attached please find my curriculum vitae. I presently hold the position of Director of Institute of Immunology, PLA, National Engineering Lab for Peptides Drugs, National Center for Immunoproducs Engineering and Technology Reserch, and National Center of Bioindustry Scale-up Unit. I am the first named inventor of the above-identified patent application and are familiar with the claimed immunogens.

2. I have reviewed the Office Action dated September 2, 2010, including the positions taken by the PTO with respect to several references. I have also particularly reviewed the references US Patent No.6,322,789(Hereinafter "Vitiello") and Tam et al., Vaccine engineering: Enhancement of immunogenicity of synthetic peptide vaccines related to hepatitis in chemically defined models consisting of T- and B-cell epitopes, Proc. Natl. Acad. Sci. U.S.A. 86:9084-9088 (1989) (Hereinafter "Tam").

3. The claimed invention relates to a polypeptide immunogen comprising sequence 1, sequence 2 and sequence 3 which are a Th cell epitope, a CTL epitope and a B cell epitope, respectively. During the prosecution of the present application, a polypeptide immunogen comprising a T helper epitope of SEQ ID NO:6, a CTL epitope of SEQ ID NO:23 and a B cell epitope of SEQ ID NO:48 was elected.

The Vitiello reference teaches a polypeptide immunogen comprising a T helper epitope (SEQ ID NO:6 of the present application) and a CTL epitope (SEQ ID NO:23 of the present application) from HBV, but is silent as to incorporating a B cell epitope (SEQ ID NO:48 of the present application) into the polypeptide.

The Tam reference teaches a synthetic peptide immunogen comprising (1) the a determinant of the S region (S protein) of HBV surface antigen and (2) residues 12-26 of the pre-S(2) region of the middle protein, which comprises SEQ ID NO:48 of the present application.

The Examiner alleges that a polypeptide immunogen comprising a T helper epitope of SEQ ID NO:6, a CTL epitope of SEQ ID NO:23 and a B cell epitope of SEQ ID NO:48 of the present application is obvious over the combination of the Vitiello reference and the Tam reference.

4. I disagree with the Examiner's conclusion. One of the key issues in current immunology is how an immune protection is generated. Up to now, the only clue is that a protective immune requires a set of epitopes. However, as to how many epitopes, how many kinds of epitopes and how to combine and match them in order to generate a protective immune, little is known. Thus, one cannot simply combine one epitope and another different epitope chosen from numerous reported epitopes and assert that the combination of the two epitopes is obvious. Naturally, the combination of 3 epitopes of the present invention cannot be viewed as a simple combination of the Vitiello reference and the Tam reference. In the present invention, we have investigated combinations of 1 to 5 epitopes, and found that a combination of 2 epitopes was better than 1 epitope, a combination of 3 epitopes was significantly and surprisingly better than a combination of 2 epitopes, and the combinations of 4, 5, and 3 epitopes were not significantly different from each other. Our finding suggests that 3 epitopes were the optimal epitope set for inducing a complete immune response according to the present invention.

5. The significant difference between effects of an immunogen comprising 3 epitopes and an immunogen comprising 2 epitopes were illustrated below.

In the following experiments, three immunogens were compared and the structures of the immunogens were as follows.

Immunogen D1 is an immunogen of the present invention, comprising a Th cell epitope, a CTL epitope and a B cell epitope (which were sequence 1, sequence 2, and sequence 3, respectively), and has the structure of $CH_3(CH_2)_{-14}CO$ KSS QYIKANSKFIGITE AAA FLPSDFFPSV GGG DPRVRGLYFPA. The sequence 1, sequence 2, and sequence 3 have the amino acid sequences of QYIKANSKFIGITE, FLPSDFFPSV, and DPRVRGLYFPA, respectively.

Immunogen D2 is a reference immunogen comprising only two epitopes, Th epitope+CTL epitope (namely, sequence 1+sequence 2), and has the structure of $CH_3(CH_2)_{-14}CO$ KSS QYIKANSKFIGITE AAA FLPSDFFPSV.

Immunogen D3 is a reference immunogen comprising only two epitopes, Th epitope+B epitope (namely, sequence 1+sequence 3) and has the structure of $CH_3(CH_2)_{-14}CO$ KSS QYIKANSKFIGITE GGG DPRVRGLYFPA.

6. Example A: Activity of Immunogen D1 to induce CTL was surprisingly

higher as compared to the additive activity of Immunogens D2 and D3.

Experiments as described in Example 55 (see paragraph [0191]) of the application were conducted to test the generation of HBV-specific effective CTL from hepatitis patients' PBMC and cytotoxicity induced by immunogens D1, D2 and D3, respectively.

Acute and chronic hepatitis blank control group, acute hepatitis subject group administered with a test drug, and chronic hepatitis subject group administered with a test drug were included. The PBMCs from the patients were cultured *in vitro*, and stimulated repetitively to generate antigen-specific CTL cells and amplified the number thereof. Then, they were used to conduct cell toxicity experiments on HepG2.2.15 cells. The results for the proportion of target cell-specific lysis rate (%) were compared and shown below:

| Test drug | Proportion of target cell-specific lysis rate (%) | |
|---------------|---|-------------------------------------|
| | PBMC from acute hepatitis patient in convalescent phase | PBMC from chronic hepatitis patient |
| Blank control | 3±5.1 | 3±2.8 |
| D1 | 68.6±5.3 | 42.6±3.4 |
| D2 | 21.3±6.3 | 15.1±5.2 |
| D3 | 5±3.1 | 4±3.5 |

It could be seen that the activity of Immunogen D1 to induce CTL was surprisingly increased as compared to the additive activity of Immunogens D2 and D3.

7. Example B: Activity of Immunogen D1 to induce interferon-secreting cells was significantly and surprisingly increased as compared to the additive activity of Immunogens D2 and D3.

The activities of D1, D2, D3 to induce CTL in HBV transgenic mice were compared using experiments as described in Example 58 (see paragraph [0194]) of the present application. Specifically, HBV-DNA transgenic mice (ayw type Kunming species mice transfected with the full length gene of HBV(1.3kb)) were used. The animals were grouped randomly, with 15 mice per group. The mice were administered respectively with 3 doses, 5 ug, 10 ug and 100 ug/mouse, subcutaneously below both costal regions and at both postpede palms. Booster was given once per week for 3 times. IFN- α 2b (15000U/mouse) was included as positive control, and physiological saline was included as negative control. On the 30th day after the end of drug administration, the spleen of the mice was taken and the spleen lymphocytes were isolated. The lymphocyte cells were stimulated *in vitro* with 10ng/ml of the test drug for 3 days. The expression frequency of IFN- γ secreting cells in the periphery blood lymphocytes was measured using ELI-SPOT assay. The result showed that on the 30th day after the end of immunization, the expression frequency of IFN- γ secreting cells in the periphery blood lymphocytes increased with the increase of the immunization dose. The increase in the Immunogen D1 group was most evident, and the frequency of

IFN- γ secreting cells in the peripheral blood lymphocytes with 5 ug/mouse, 30 days *in vivo* induction clearly increased, wherein the highest frequency detected was 3660 \pm 112 IFN- γ secreting cells/10⁶PBMC, which was 200 times that of the Immunogen D2 group, and 1000 times that of Immunogen D3 group, as shown in the Table below:

Table. Frequency of IFN- γ secreting cells in the peripheral blood lymphocytes with 5 ug/mouse, 30 days *in vivo* induction

| Test drug | IFN- γ secreting cells/10 ⁶ PBMC |
|------------------------|--|
| D1 | 3660 \pm 112 |
| D2 | 183 \pm 45 |
| D3 | 3 \pm 7 |
| IFN-a2b (15000U/mouse) | 75 \pm 11 |

It could be seen that activity of Immunogen D1 to induce interferon-secreting cells was significantly and surprisingly increased as compared to the additive activity of Immunogens D2 and D3.

8. Example C: Immunogen D1 led to significant decrease of HBV surface antigen amount in contrast to no significant change by Immunogens D2 and D3.

Experiments as described in Example 59 (see paragraph [0195]) of the present application were conducted to determine the inhibition of HBV surface antigen in HBV transgenic mice by Immunogens D1, D2 and D3, respectively. Specifically, HBV-DNA transgenic mice (ayw type Kunming species mice transfected with the full length gene of HBV (1.3kb)) were used. The animals were grouped randomly, with 15 mice per group. The mice were administered respectively with 3 doses, 10, 100 and 1000 U/mouse, subcutaneously below both costal regions and at both postpede palms. Booster was given once per week for 3 times. IFN-a2b (15000U/mouse) was included as positive control, and physiological saline was included as negative control. On the 10th, 20th, and 30th days after the end of the three immunizations, the blood were taken from the mice, and the serum were separated. The amounts of HBsAg in the serums were measured using ELISA assay respectively. The results showed that 30 days after the end of immunization, in the mice of Immunogen D1 treatment group, the serum HBsAg amount significantly decreased by more than 200 times in a manner of dose-dependence and time-dependence, whereas the serum HBsAg amount in the Immunogen D2 treatment group or Immunogen D1 treatment group did not change significantly.

It could be seen that the activity of Immunogen D1 to decrease HBV surface antigen amount was significantly higher than the additive activity of Immunogens D2 and D3.

9. Example D: Activity of Immunogen D1 to inhibit HBV virus replication was significantly enhanced as compared to the additive activity of Immunogens D2 and D3

Inhibition of virus replication in HBV transgenic mice were measured as described in Example 60 (see paragraph [0196]) of the present application. Specifically, HBV-DNA transgenic mice (ayw type Kunming species mice transfected with the full length gene of HBV (1.3kb)) were used. The animals were grouped randomly, with 15 mice per group. The mice were administered respectively with 3 doses, 10, 100 and 1000 U/mouse, subcutaneously below both costal regions and at both postpede palms. Booster was given once per week for 3 times. IFN- α 2b (15000U/mouse) was included as positive control, and physiological saline was included as negative control. On the 10th, 20th, and 30th days after the end of the three immunizations, the blood were taken from the mice, and the serum were separated. The HBV DNA copy numbers in the serums were detected using quantitative PCR analysis respectively. The results showed that for Immunogen D1 treatment group, on the 20th and 30th days, the serum HBV DNA copy number was significantly reduced in a manner of dose-dependence and time-dependence, wherein all of them were $<10^2$ copies/ml on the 30th day; for Immunogen D2 treatment group, on the 30th day, the serum HBV DNA copy number was evidently decreased, with 10^4 ~ 10^3 copies/ml in 12/15 mice and no significant change in 3/15 mice; and for Immunogen D3 treatment group, there was no clear change.

It could be seen that the activity of Immunogen D1 to inhibit HBV virus replication was significantly enhanced as compared to the additive activity of Immunogens D2 and D3.

10. Example E: Immunogen D1 caused strong CTL response, reduction of virus amount and serological transformation in the tested human population.

Immunogen D1 was authorized by the SFDA to enter the clinical phase. The II(a) stage clinical tests showed that, in 10 subjects of the 900ug treatment group (3 subcutaneous injections, at 6 week intervals), 1 week after the three injections, 10/10 subjects generated strong CTL response, the frequency of CTL in PBMC was increased from $0.2\pm0.3\%$ before the injection to 5-7%. In the 84th week, in 7/10 subjects, the serum HBV DNA copy number was significantly decreased by more than 2log; in 5/10 subjects, the serum HBV DNA copy number was $<10^2$ copies/ml; in 5/10 subjects, the serum showed HBeAg/HBeAb serological transformation and negative HbeAg. Immunogens D2 and D3 were not authorized by the SFDA to enter into clinical phase.

11. Even if one were motivated to combine a Th cell epitope, a CTL epitope and a B cell epitope to generate an immunogen, an ordinary skilled artisan would have expected that Immunogen D1 comprising a Th cell epitope, a CTL epitope and a B cell epitope would have effect which was not more than the additive effects of Immunogen D2 comprising only Th epitope and CTL epitope and Immunogen D3 comprising only Th epitope and B epitope. Therefore, there was no expectation that Immunogen D1 would generate greater effect than the sum of the effect of Immunogen D2 and the effect Immunogen D3 (namely, the additive effect of Immunogens D2 and D3).

From the results of the above Examples A-E, however, it can be seen that the effects of Immunogen D1 are significantly much higher than the additive effects of Immunogens D2 and D3.

Accordingly, it can be concluded that Immunogen D1 can generate

unexpectedly better effects as compared to Immunogens D2 and D3, and that an immunogen of the present invention comprising a Th cell epitope, a CTL epitope and a B cell epitope is not obvious at the time of invention.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like, so made, are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted

February 25, 2011

Date



Yuzhang Wu

Curriculum Vitae

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Education

PhD, Third Military Medical University, 1993
MSc, Third Military Medical University, 1989
MD, Second Military Medical University, 1984

Experience and Appointment

| | |
|-----------|---|
| 2000- | Director Institute of Immunology, PLA National Engineering Lab for Peptides Drugs National Center for Immunoproducs Engineering and Technology Reserch National Center of Bioindustry Scale-up Unit |
| 1996-2000 | Professor Institute of Immunology, PLA Third Military Medical University Chongqing, China |
| 1994-1996 | Associate Professor Institute of Immunology, PLA Third Military Medical University Chongqing, China |
| 1985-1994 | Assistant Professor Department of Epidemiology, PLA Third Military Medical University Chongqing, China |

Scientific Rewards

| | |
|------|---|
| 1996 | Top 100 Outstanding Young Scientists in Medical Science, China New Star in Scientific Research, PLA |
| 2000 | Hundreds Talented Scientists in the New Century, China |
| 2002 | Outstanding Youth Foundation ,National Science Foundation of China Silver Star in Scientific Research, PLA |
| 2005 | Natural Science Prize, Level I, Chongqing |

- 2006 Changjiang Scholar
Annual 10 Research Achievements in Science and Technology, China
- 2008 Golden Star in Scientific Research, PLA
Natural Science Prize, Level II, Ministry of Education, China
- 2009 Medical Science Achievement Prize, Level I, Chinese Medical Society

Recent Research Projects

| No. | Grant No. | Grants | Foundation | Fund (x10 ⁴ Yuan) | Principal |
|-----|----------------|--|---|---------------------------------|------------|
| 1. | 2009ZX09503 | Critical technology research on peptide biological products manufacturing and modification | Key Project of National Science and Technology, China | 750.0 | Yuzheng Wu |
| 2. | 2008ZX10202 | Clinical research on the therapeutic vaccine of viral hepatitis B | Key Project of National Science and Technology, China | 1500.0 | Yuzheng Wu |
| 3. | — | Pilot production center of national biotechnology industry base | National Development and Reform Commission, China | 1200.0 | Yuzheng Wu |
| 4. | — | National engineering research center for biological products | National Science and Technology Ministry, China | 1200.0 | Yuzheng Wu |
| 5. | 2006AA02A207 | Development of viral hepatitis B therapeutic vaccine | National Project for High Technology | 898.0 | Yuzheng Wu |
| 6. | 2007CB512401 | Immune recognition of autoantigen and design of negative vaccine | The National Principal Program for Basic Research, China | 350.0 | Yuzheng Wu |
| 7. | 30930086 | Cellular and molecular mechanism of immune injury in the infection of Hepatitis B virus | The Key Project of the National Natural Science Foundation of China | 185.0 | Yuzheng Wu |
| 8. | 30490241 | Immune recognition based on epitope structure | The Principal Program of the National Natural Science Foundation of China | 170.0 | Yuzheng Wu |
| 9. | — | Changjiang Scholar Award | Changjiang Scholar Award Foundation | 200.0 | Yuzheng Wu |
| 10. | CSTC2005CB5006 | Center for engineering research of peptide therapeutics, Chongqing | Science and Technology Innovation Foundation, Chongqing, China | 100.0 | Yuzheng Wu |
| 11. | | Molecular and cellular Immunologic mechanism of hepatic injury and protection in HBV infection | National Natural Science Foundation of China | 185.0 | Yuzheng Wu |

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